

June 2009

TITLE 49

Public Utilities

Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 49. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1449 requires the Public Service Commission to adopt rules governing the decommissioning of commercial wind energy conversion facilities and the rules must address present and future natural resource development. In addition, the bill requires the facility owner or operator of a commercial wind energy facility to record the location of any portion of underground foundation not removed during decommissioning with the county recorder.

Senate Bill No. 2413 includes a generation system that consumes wellhead gas that would otherwise be flared, vented, or wasted within the definition of renewable and recycled energy for energy credit tracking and trading by the Public Service Commission.

House Bill No. 1436 changes from the Legislative Council to Legislative Management the body that appoints one member representing the House and one member representing the Senate as initial incorporators to the nonprofit corporation governing the One-Call Notification Center.

House Bill No. 1032 exempts from the energy conversion and transmission facility siting jurisdiction of the Public Service Commission construction conducted within the same footprint previously for which a certificate or permit was granted if the new activities do not affect any known exclusion or avoidance area. The bill requires that if activities are expected to affect a known avoidance area the utility must certify in writing to the commission that the activities will not affect any known exclusion area and that the utility will comply with all previous applicable conditions and protections. The bill requires that if the activities are expected to impact an avoidance area the utility must notify the commission in writing and provide information on the specific avoidance area and reasons why impacts cannot be avoided and requires the utility to receive the commission's written approval. In addition, the bill exempts a transmission line that is less than one mile long from siting jurisdiction, a gas or liquid transmission line in a pipe with an outside diameter of four and one-half inches or less that will not be trenched and will not be plowed in with a power mechanism having a vertical knife or horizontally directionally drilled, and a pipeline that is less than one mile long from siting jurisdiction.

House Bill No. 1008 increases the annual salary of a commissioner to the Public Service Commission to \$85,830 through June 30, 2010, and \$90,122 thereafter, from a previous salary of \$81,743.

Senate Bill No. 2132 changes the title of the president of the Public Service Commission to the chairman of the Public Service Commission.

House Bill No. 1342 classifies railroad crossings as public railroad crossings and private railroad crossings and requires that a warning device on the lead locomotive must be sounded when approaching a public railroad crossing and not be sounded at a private railroad crossing; however, a party may petition the Public Service Commission to request that a horn be sounded at a private railroad crossing. In addition, the bill allows a locomotive engineer to sound a locomotive horn at any crossing to provide warning to animals, vehicle operators, pedestrians, trespassers, or crews of other trains in an emergency situation.

House Bill No. 1353 requires that if relocation, change, or removal of a facility required by governmental action impacts the cost of essential telecommunications services, the cost must be fully reflected in the price for those services and allows those increases to be immediate.

Senate Bill No. 2137 requires that application fees from public utilities be deposited in a special account and the money deposited is appropriated on a continuing basis to the Public Service Commission to pay expenses incurred in the processing of cases in which the application fees are required and the commission shall refund the portion of the fee which exceeds the expenses.

Senate Bill No. 2297 defines distribution lines for purposes of taxation of generation, distribution, and transmission of electric power.